



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/718,153

11/20/2003

Andrew J. Ritz

MS304412.1/MSFTP484US

9001

27195

7590

12/12/2007

AMIN. TUROCY & CALVIN, LLP

24TH FLOOR, NATIONAL CITY CENTER

1900 EAST NINTH STREET

CLEVELAND, OH 44114

EXAMINER

JUNG, DAVID YIUK

ART UNIT

PAPER NUMBER

2134

NOTIFICATION DATE

DELIVERY MODE

12/12/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com  
hholmes@thepatentattorneys.com  
osteuball@thepatentattorneys.com

AK

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/718,153 | <b>Applicant(s)</b><br>RITZ ET AL. |  |
|                              | <b>Examiner</b><br>David Y. Jung     | <b>Art Unit</b><br>2134            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-3, 6-8 and 10-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3, 6-8, and 10-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on file is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### **CLAIMS PRESENTED**

Claims 1-3, 6-8, and 10-35 are presented.

### ***Response to Arguments***

Applicant's arguments filed have been fully considered but they are not persuasive. Applicant asserted that the feature of "from a BIOS component during an operating system boot process occurring after a hibernate mode" is not taught or suggested by the prior art. Applicant's discussion has caused a careful study of the prior art.

Upon another study of Arbaugh (part of prior art), the Office noticed page 27 and figure 3.1 of Arbaugh. The S4 state (the hibernate state of ACPI standard notation) is handled with the BIOS in the same way as states S1, S2, S3. Thus, the Office must conclude that "from a BIOS component during an operating system boot process occurring after a hibernate mode" is as taught by Arbaugh as the situation with other modes (such as in S1, S2, S3 states).

### **CLAIM REJECTIONS**

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-8, and 10-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arbaugh (cited by Applicant, WILLIAM A. ARBAUGH, et al., Automated Recovery in a Secure Bootstrap Process, August 1, 1997, pp. 1-17) and Acpi (cited by Applicant, Advanced Configuration and Power Interface Specification, Revision 2.0a, Compaq/Intel/Microsoft/Phoenix/Toshiba, March 31, 2002) and Allgeuer ("Why Bother About BIOS Security?", [http://www.sans.org/reading\\_room/whitepapers/threats/108.php](http://www.sans.org/reading_room/whitepapers/threats/108.php), year 2001).

Regarding claim 1 (for that matter all other claims as well), Applicant asserted that the feature of "from a BIOS component during an operating system boot process occurring after a hibernate mode" is not taught or suggested by the prior art. Upon another study of Arbaugh, the Office noticed page 27 and figure 3.1 of Arbaugh. The

S4 state (the hibernate state of ACPI standard notation) is handled with the BIOS in the same way as states S1, S2, S3. Thus, the Office must conclude that "from a BIOS component during an operating system boot process occurring after a hibernate mode" is as taught by Arbaugh as the situation with other modes (such as in S1, S2, S3 states).

Thus, it would have been obvious to those of ordinary skill in the art at the time of the claimed invention to combine the teachings of Acpi and the teachings of Allgeuer and the teachings of Arbaugh for the motivation noted previously (and pointed out in previous Office Actions regarding claim 1 and all other claims) so as to teach the claimed invention.

For the other details (which are devoted to issues that are no longer contested), see the previous Office Action.

### ***Conclusion***

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Application/Control Number:  
10/718,153  
Art Unit: 2134

Page 5

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Points of Contact***

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

Application/Control Number:  
10/718,153  
Art Unit: 2134

Page 6

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Kambiz Zand whose telephone number is (272) 272-3811.

David Jung

-----

Patent Examiner

12/6/07

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line.